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*Marilyn R. Khorsandi* Jan. 10, 2012  
Marilyn R. Khorsandi

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : David Allison Bennett, et al.  
Application No. : 09/680,654  
Filed : October 6, 2000  
Title : Apparatus, Systems and Methods For Online,  
Multi-Carrier, Multi-Service Parcel Shipping  
Management Featuring Shipping Rate and Delivery  
Schedule Comparison For Multiple Carriers  
Grp./Div. : 3629  
Examiner : Michael M. Thompson  
Docket No. : PSTM0015/MRK

**STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT  
IN SUPPORT OF APPLICATION FOR RECONSIDERATION OF PATENT TERM  
ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE  
UNDER 37 C.F.R. §1.705(b)(2)**

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P.O. Box 1450  
Alexandria, VA 22313-1450

140 S Lake Ave, Ste 312  
Pasadena, CA 91101-4710  
January 10, 2012

Commissioner:

This Statement of the Correct Patent Term Adjustment in Support of Application for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance is filed concurrently with an Application for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance for the above-identified patent application.

The above-identified patent application was allowed in a Notice of Allowance dated October 11, 2011. The Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) attached to the Notice of Allowance awarded a Patent Term Adjustment for the above-identified application of 2,497 days. It is respectfully asserted that for the reasons given below, the determination of 2,497 days is in error due to no fault of the Applicant. For the reasons given below, it is respectfully asserted that an accurate calculation of the Patent Term Adjustment for the present application through the issuance of the Notice of Allowance requires a further **reduction of 95 days** resulting in a Patent Term Adjustment of **2,402 days**.

It is respectfully asserted that the determination of 2,497 days is in error, due to a failure in the PAIR system Patent Term Adjustment History to provide the Patent Term Adjustment events and/or considerations under 35 U.S.C. 154 and 37 C.F.R. §1.704

described below. The description below refers to the PAIR system Patent Term Adjustment and Patent Term Adjustment History for the Application, a printout of which is attached hereto as Exhibit A.

**Item (1.) Extension for Filing Response to Notice of Missing Parts –Applicant Delay of 31 Days.**

For the following reasons, it is respectfully asserted that **period of adjustment credits** for the present case **should be reduced by 31 days** for the period of time in excess of three months following the issuance of a Notice to file Missing Parts until which a Response to that Notice was filed.

According to 37 C.F.R. §1.705(c), period of adjustment credits shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed.

In the present case, it is respectfully asserted that the PAIR system Patent Term Adjustment History failed to specify any reduction of period of adjustment credits for a Response to a Notice of Missing Parts that was filed more than 3 months after the mailing date of the Notice of Missing Parts. In particular:

(i) the PAIR system Patent Term Adjustment History shows an entry No. 4, dated 01-08-2001, titled "Notice Mailed—Application Incomplete—Filing Date Assigned" (see Exhibit A hereto, entry No. 4), which the PAIR system apparently did not identify as a Notice of Missing Parts;

(ii) there is no entry in the PAIR system Patent Term Adjustment History (see Exhibit A hereto) of a Response to Notice of Missing Parts, designated in the PAIR System Image File Wrapper (see Exhibit B hereto) for the Application as an entry dated "05-10-2001", entitled "Applicant Response to Pre-Exam Formalities Notice"; and

(iii) the PAIR system Patent Term Adjustment History fails to associate the May 10, 2001-dated entry for Applicant's Response to Notice of Missing Parts with the Notice of Missing Parts, dated 01-08-2001.

It is respectfully submitted that period of adjustment credits should be reduced, according to 37 C.F.R. §1.704(b), by 31 days (wherein the 31 days began on April 9, 2001 (the day after the April 8, 2001 date that is three months after the January 8, 2001 mailing date of the Notice of Missing Parts), and ended on May 10, 2001 (the date noted in the PAIR system on the Image File Wrapper for the above-identified application as the receipt date of the Response to the Notice of Missing Parts)).

**Item (2.) Reply Having Omission(s) -- Applicant Delay of 59 Days.**

For the following reasons, it is respectfully asserted that **period of adjustment credits** for the present case **should be further reduced by 59 days** for the period of time beginning on the day after the date on which an Appeal Brief having omission(s) was filed by Applicant, and ending on the date that a reply correcting the omission(s) was filed.

According to 37 C.F.R. §1.704(c)(7), period of adjustment credits shall be reduced where an applicant files a reply having an omission for the period beginning on the day after the date the reply having an omission was filed, and ending on the date that the reply correcting the omission was filed.

In the present case, it is respectfully asserted that the PAIR system Patent Term Adjustment History failed to specify any reduction of period of adjustment credits for an Appeal Brief that was filed in reply to a Notice of Omissions by the initial Appeal Brief filed. In particular:

(i) the PAIR system Patent Term Adjustment History shows an entry No. 67, dated 07-03-2006, titled "Appeal Brief Filed" (see Exhibit A hereto, entry No. 67);

(ii) the PAIR system Patent Term Adjustment History shows entry No. 70, dated 08-02-2006 and titled "Notice – Defective Appeal Brief" (see Exhibit A hereto, entry No. 70);

(iii) the PAIR system Patent Term Adjustment History shows entry No. 71, dated 08-31-2006 and titled "Appeal Brief Filed;"

(iv) the PAIR system Patent Term Adjustment History fails to show any reduction of period of adjustment credits for the 59-day time beginning on the day after the date of entry No. 67, dated 07-03-2006, titled "Appeal Brief Filed," and ending on the day that an Appeal Brief was filed in response to the above-mentioned Notice of Defective Appeal Brief as indicated by entry No. 71, dated 08-31-2006, titled "Appeal Brief Filed;" (see Exhibit A hereto).

Accordingly, pursuant to 37 C.F.R. §1.704(c)(7), it is respectfully asserted that the period of adjustment credits for the present case should be reduced by the above-described 59-day period of time beginning on the day after the Appeal Brief having (an) omission(s) was filed and ending on the date that the Appeal Brief correcting the omission(s) was filed.

**Item (3.) Post-RCE IDS Filing -- Applicant Delay of 5 Days.**

For the following reasons, it is respectfully asserted that **period of adjustment credits** for the present case should be **further reduced by 5 days** for the period of

time following a filing of a Request for Continued Examination and an Amendment until the date on which an Information Disclosure Statement was filed.

According to 37 C.F.R. §1.704(c)(8), period of adjustment credits shall be reduced where an applicant files a supplemental reply or other paper, not expressly requested by the Examiner, after a reply has been filed. See 37 C.F.R. §1.704(c)(8). The period of reduction begins on the day after the date the initial reply was filed and ends on the date that the supplemental reply or other paper was filed. See 37 C.F.R. §1.704(c)(8).

In the present case, it is respectfully asserted that the PAIR system Patent Term Adjustment History failed to specify any reduction of period of adjustment credits for an Information Disclosure Statement that was filed after an Initial Request for Continued Examination filing. In particular:

(i) the PAIR system Patent Term Adjustment History shows an entry No. 103, dated 05-20-2011, titled "Request for Continued Examination (RCE)" (see Exhibit A hereto, entry No. 103);

(ii) the PAIR system Patent Term Adjustment History shows entry Nos. 99 - 101, all of which are dated 05-25-2011 and titled "Information Disclosure Statement (IDS) Filed" (see Exhibit A hereto, entry Nos. 99 - 101); and

(iii) the PAIR system Patent Term Adjustment History fails to show any reduction of period of adjustment credits for the 5-day time beginning on the day after entry No. 103, dated 05-20-2011, titled "Request for Continued Examination (RCE)," and ending on the day of entry Nos. 99-101, dated 05-25-2011, titled "Information Disclosure Statement (IDS) Filed" (see Exhibit A hereto).

The above-identified IDS filing was made following the filing of an RCE and before a first Office Action following the RCE filing; there was no fee due for filing such an IDS. Even so, it is respectfully submitted that 37 C.F.R. §1.704(c)(8) does not expressly exclude time periods for such post-RCE IDS filings.

Accordingly, it is respectfully asserted that the period of adjustment credits for the present case should be reduced by the 5-day period described above regarding the post-RCE, post-Response-filing IDS filing.

## **CONCLUSION**

For the reasons given above, it is accordingly respectfully asserted that the Patent Office determination of 2,497 days is in error, that period of adjustment credits should be reduced by a total of 95 days (31 days for Item 1, plus 59 days for Item 2, plus 5 days for

STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT  
Serial No. 09/680,654

Item 3), and that the correct Patent Term Adjustment for the present case, through the date of the Notice of Allowance, is **2,402 days**.

**STATEMENT FURTHER TO 37 C.F.R. §1.705(b)(2)(iii)**

With respect to the requirement set forth in 37 C.F.R. §1.705(b)(2)(iii), it is respectfully submitted that no terminal disclaimer was filed in the above-identified patent application (Serial No. 09/680,654). However, a TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER PENDING SECOND APPLICATIONS has been filed in the case of certain other patent applications, namely in the cases of Application Serial Nos. 09/684,869, 09/684,866, and 09/684,010, with respect to, among others, the present case (the above-identified patent application Serial No. 09/680,654).

Respectfully submitted,  
KHORSANDI PATENT LAW GROUP,  
A LAW CORPORATION

Jan. 10, 2012  
Date

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**EXHIBIT A**  
**USPTO PAIR SYSTEM PATENT TERM ADJUSTMENT**  
**HISTORY PRINTOUT**  
**FOR APPLICATION NO. 09/680,654**



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PARCEL SHIPPING MANAGEMENT FEATURING SHIPPING RATE AND DELIVERY SCHEDULE  
COMPARISON FOR MULTIPLE CARRIERS

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## Patent Term Adjustment

Filing or 371(c) Date:	10-06-2000	Overlapping Days Between {A and B} or {A and C}:
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:
A Delays:	867	PTO Manual Adjustments:
B Delays:	0	Applicant Delays:
C Delays:	1786	Total PTA Adjustments:

## Patent Term Adjustment History

[Explanation Of Calculations](#)

Number	Date	Contents Description	PTO(Days)	APPL(Days)
123	10-11-2011	Mail Notice of Allowance	21	
122	10-07-2011	Office Action Review		
121	10-07-2011	Office Action Review		
120	10-07-2011	Issue Revision Completed		
119	10-07-2011	Document Verification		
118	10-03-2011	Notice of Allowance Data Verification Completed		
117	10-03-2011	Reasons for Allowance		
116	10-03-2011	Allowability Notice		
115	12-10-2001	Information Disclosure Statement considered		
114	12-10-2001	Information Disclosure Statement considered		
113	05-25-2011	Information Disclosure Statement considered		
112	05-25-2011	Information Disclosure Statement considered		
111	05-25-2011	Information Disclosure Statement considered		
110	10-03-2011	case Inherited		
109	10-03-2011	Case Docketed to Examiner in GAU		
108	05-25-2011	Electronic Information Disclosure Statement		
107	05-25-2011	Electronic Information Disclosure Statement		
106	05-25-2011	Electronic Information Disclosure Statement		
105	05-26-2011	Date Forwarded to Examiner		
104	05-20-2011	Amendment Submitted/Entered with Filing of CPA/RCE		
103	05-20-2011	Request for Continued Examination (RCE)		
102	05-26-2011	Disposal for a RCE / CPA / R129		
101	05-25-2011	Information Disclosure Statement (IDS) Filed		
100	05-25-2011	Information Disclosure Statement (IDS) Filed		
99	05-25-2011	Information Disclosure Statement (IDS) Filed		
98	05-20-2011	Workflow - Request for RCE - Begin		
97	03-22-2011	Mail BPAI Decision on Appeal - Reversed	1786	
96	03-22-2011	BPAI Decision - Examiner Reversed		
95	03-22-2011	Mail - BPAI Decision 41.50(b) In IFW: 196(b)		
94	03-22-2011	BPAI Decision 41.50(b)		
93	05-18-2009	Docketing Notice Mailed to Appellant		
92	05-15-2009	Assignment of Appeal Number		
91	04-30-2009	Appeal Awaiting BPAI Docketing		
90	04-22-2009	TC completion of return order		
89	04-02-2009	Mail Miscellaneous Communication to Applicant		
88	03-30-2009	Miscellaneous Communication to Applicant - No Action Count		
87	01-27-2006	Information Disclosure Statement considered		
86	11-18-2008	Order Returning Undocketed Appeal to the Examiner		
85	07-29-2008	Appeal Awaiting BPAI Docketing		
84	10-30-2007	Mail Reply Brief Noted by Examiner		
83	10-25-2007	Reply Brief Noted by Examiner		
82	12-10-2001	Information Disclosure Statement (IDS) Filed		
81	12-10-2001	Information Disclosure Statement (IDS) Filed		
80	02-02-2007	Return of Undocketed appeal to the TC		
79	02-02-2007	Exam. Ans. Review Complete		
78.7	01-27-2006	Information Disclosure Statement (IDS) Filed		
78	01-27-2006	Information Disclosure Statement (IDS) Filed		
77	02-02-2007	Appeal Brief Review Complete		
76	02-02-2007	Date Forwarded to Examiner		
75	01-24-2007	Reply Brief Filed		

74	11-30-2006	Mail Examiner's Answer	
73	11-27-2006	Examiner's Answer to Appeal Brief	
72	09-13-2006	Date Forwarded to Examiner	
71	08-31-2006	Appeal Brief Filed	
70	08-02-2006	Notice -- Defective Appeal Brief	
69	07-31-2006	Appeal Brief Review Complete	
68	07-31-2006	Date Forwarded to Examiner	
67.1	07-03-2006	Defective / Incomplete Appeal Brief Filed	
67	07-03-2006	Appeal Brief Filed	
66	05-19-2006	Mail Appeals conf. Proceed to BPAI	
65	05-16-2006	Pre-Appeals Conference Decision - Proceed to BPAI	
64	05-02-2006	Request for Pre-Appeal Conference Filed	
63	05-02-2006	Notice of Appeal Filed	5
62	04-13-2006	Correspondence Address Change	
61	01-27-2006	Mail Final Rejection (PTOL - 326)	
60	01-20-2006	Final Rejection	
59	11-07-2005	Information Disclosure Statement considered	
58	11-07-2005	Reference capture on IDS	
57.7	11-07-2005	Information Disclosure Statement (IDS) Filed	0
57	11-07-2005	Information Disclosure Statement (IDS) Filed	
56	11-15-2005	Date Forwarded to Examiner	
55	11-07-2005	Response after Non-Final Action	4
54	08-03-2005	Mail Non-Final Rejection	
53	07-25-2005	Non-Final Rejection	
52	05-06-2005	Miscellaneous Incoming Letter	
51	05-06-2005	Request for Foreign Priority (Priority Papers May Be Included)	
50	08-17-2001	Miscellaneous Incoming Letter	
49	08-22-2001	Miscellaneous Incoming Letter	
48	03-31-2005	Request for Foreign Priority (Priority Papers May Be Included)	
47	03-31-2004	Miscellaneous Incoming Letter	
44.7	05-06-2005	Information Disclosure Statement (IDS) Filed	
44	05-06-2005	Information Disclosure Statement (IDS) Filed	
43	05-11-2005	Date Forwarded to Examiner	
42	05-06-2005	Amendment Submitted/Entered with Filing of CPA/RCE	
41	05-11-2005	Date Forwarded to Examiner	
40	05-06-2005	Request for Continued Examination (RCE)	2
39	05-11-2005	Disposal for a RCE / CPA / R129	
38	05-06-2005	Workflow - Request for RCE - Begin	
37.7	11-19-2004	Electronic Information Disclosure Statement	
37	11-19-2004	Information Disclosure Statement (IDS) Filed	
36	02-04-2005	Mail Final Rejection (PTOL - 326)	
35	02-04-2005	Final Rejection	
34	01-05-2005	IFW TSS Processing by Tech Center Complete	
33.7	11-22-2004	Information Disclosure Statement (IDS) Filed	19
33	11-22-2004	Information Disclosure Statement (IDS) Filed	
32	11-27-2004	Date Forwarded to Examiner	
31	11-03-2004	Response after Non-Final Action	61
30	11-03-2004	Workflow incoming amendment IFW	
29	10-02-2004	Mail Notice of Informal or Non-Responsive Amendment	
28	10-02-2004	Date Forwarded to Examiner	
27.1	09-03-2004	Informal or Non-Responsive Amendment after Examiner Action	
27	09-03-2004	Response after Non-Final Action	65
26	09-03-2004	Request for Extension of Time - Granted	
23	09-03-2004	Workflow incoming amendment IFW	
22	03-31-2004	Mail Non-Final Rejection	846
21	03-22-2004	Non-Final Rejection	
20	03-02-2004	Case Docketed to Examiner in GAU	
19	08-26-2002	Case Docketed to Examiner in GAU	
18	04-23-2002	Case Docketed to Examiner in GAU	
17	04-23-2002	Case Docketed to Examiner in GAU	
16	04-23-2002	Case Docketed to Examiner in GAU	
15.7	12-10-2001	Information Disclosure Statement (IDS) Filed	
15	12-10-2001	Information Disclosure Statement (IDS) Filed	
14	12-06-2001	Case Docketed to Examiner in GAU	
13	12-06-2001	Case Docketed to Examiner in GAU	
12.7	08-22-2001	Information Disclosure Statement (IDS) Filed	
12	08-22-2001	Information Disclosure Statement (IDS) Filed	
11.7	08-09-2001	Information Disclosure Statement (IDS) Filed	
11	08-09-2001	Information Disclosure Statement (IDS) Filed	
10	06-21-2001	Case Docketed to Examiner in GAU	



9	06-14-2001	Case Docketed to Examiner in GAU
8	05-22-2001	Application Dispatched from OIPE
7	05-19-2001	Application Is Now Complete
6	05-19-2001	Correspondence Address Change
5	05-19-2001	Correspondence Address Change
4	01-08-2001	Notice Mailed--Application Incomplete--Filing Date Assigned
3	01-06-2001	Correspondence Address Change
2	11-22-2000	IFW Scan & PACR Auto Security Review
1	10-06-2000	Initial Exam Team nn
0.5	10-06-2000	Filing date

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10-11-2011	NOA	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	8
10-11-2011	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
10-11-2011	1449	List of References cited by applicant and considered by examiner	PROSECUTION	2
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